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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Burrell et al
Serial No. : 09/840,637
Filed : April 23, 2001
Title : TREATMENT OF ACNE

Art Unit : 1616
Examiner : J. Pak

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

TERMINAL DISCLAIMER UNDER 37 CFR §§3.73(b) AND 1.321(b)

Pursuant to 37 CFR §3.73(b), Nucryst Pharmaceuticals Corp., a Canadian corporation, certifies that it is the assignee of the entire right, title, and interest in the above application by virtue of an assignment from the inventors of the patent application referenced above to Westaim Biomedical Corp. (recorded at Reel 012057/Frame 0492) and an assignment from Westaim Biomedical Corp. to Nucryst Pharmaceuticals Corp. (recorded at Reel 012463/Frame 0028). Nucryst Pharmaceuticals Corp. also certifies that it is the assignee of U.S. Patent Application No. 10/131,511, due to issue as U.S. Patent No. 6,939,568.

I, Scott H. Gillis, have reviewed all the documents in the chain of title of the above-identified application and to the best of my knowledge and belief, title is in Nucryst Pharmaceuticals Corp.

I, as the president, am empowered to act on behalf of Nucryst Pharmaceuticals Corp.

Pursuant to 37 CFR §1.321(b), and to obviate a double patenting rejection, Nucryst Pharmaceuticals Corp. hereby waives and disclaims the terminal portion of the term of the entire patent to be granted upon the above identified application subsequent to the expiration date of the patent issuing from U.S. Patent Application No. 10/131,511, due to issue as U.S. Patent No. 6,939,568, whereby the patent granted on this application and the patent issuing from U.S. Patent

CERTIFICATE OF MAILING BY FIRST CLASS MAIL

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I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date of Deposit

Signature

Typed or Printed Name of Person Signing Certificate

August 30, 2005
Christine Powers
Christine Powers

Application No. 10/131,511, due to issue as U.S. Patent No. 6,939,568 will expire on the same day, provided that any patent granted on the above identified application shall be enforceable only for and during such period that it is commonly owned with the patent issuing from U.S. Patent Application No. 10/131,511, due to issue as U.S. Patent No. 6,939,568.

Nucryst Pharmaceuticals Corp. identified above does not disclaim any terminal part of any patent granted on the above identified application prior to the expiration date of the full statutory term of the patent issuing from U.S. Patent Application No. 10/131,511, due to issue as U.S. Patent No. 6,939,568 in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR §1.321(a), has all claims cancelled by a reexamination certificate, or is otherwise terminated prior to expiration of its statutory term, except for the separation of legal title as stated above. Nucryst Pharmaceuticals Corp. herein does not disclaim or otherwise affect any part of the patent issuing from U.S. Patent Application No. 10/131,511, due to issue as U.S. Patent No. 6,939,568.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon. This disclaimer runs with any patent granted on the above application and is binding upon the grantee, its successors or assigns.

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Attorney's Docket No.: 14072-010001 / W 565

Enclosed is a check for \$130 for the required fee pursuant to 37 CFR §1.20(d). Please charge any additional fees, or make any credits, to Deposit Account No. 06-1050, referencing Attorney Docket No. 14072-010001.

Date: 8-25-05

Respectfully submitted,

Scott H. Gillis

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